

Remarks

On page 2 of the Office Action (Paper No. 20080428), the Examiner issued a twenty two-way restriction requirement pursuant to 35 USC § 121 and § 372. (Paper No: 20080428.) The restriction divided the claims into "the following inventions or group of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1":

Group I drawn to "a polynucleotide encoding a polypeptide having L-sorbose dehydrogenase activity comprising SEQ ID NO: 1, a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbose dehydrogenase" containing claim(s) 1-8, 1-17 and 22.

Group II drawn to "a polynucleotide encoding a polypeptide having L-sorbose dehydrogenase activity comprising SEQ ID NO:11, a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbose dehydrogenase" containing claim(s) 1-8, 1-17 and 22.

Group III drawn to "a polynucleotide encoding a polypeptide having L-sorbose dehydrogenase activity comprising SEQ ID NO:13, a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbose dehydrogenase" containing claim(s) 1-8, 1-17 and 22.

Group IV drawn to "a polynucleotide encoding a polypeptide having L-sorbose dehydrogenase activity comprising SEQ ID NO:15, a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbose dehydrogenase" containing claim(s) 1-8, 1-17 and 22.

Group V drawn to "a polynucleotide encoding a polypeptide having L-sorbose dehydrogenase activity comprising SEQ ID NO:17, a vector comprising

thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbosone dehydrogenase" containing claim(s) 1-8, 1-17 and 22.

Group VI drawn to "a polynucleotide encoding a polypeptide having L-sorbosone dehydrogenase activity comprising SEQ ID NO:19, a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbosone dehydrogenase" containing claim(s) 1-8, 1-17 and 22.

Group VII drawn to "a polynucleotide encoding a polypeptide having L-sorbosone dehydrogenase activity comprising SEQ ID NO:21, a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbosone dehydrogenase" containing claim(s) 1-8, 1-17 and 22.

Group VIII drawn to "a polynucleotide encoding a polypeptide having L-sorbosone dehydrogenase activity comprising SEQ 10 NO:26; a vector comprising thereof and a fungal, plant or bacterial organism comprising thereof and a method of making L-sorbosone dehydrogenase" containing claim(s) 1-8, 1-17 and 22.

Group IX drawn to "a polypeptide of SEQ ID NO:2" containing claim(s) 9-11.

Group X drawn to "a polypeptide of SEQ ID NO:12" containing claim(s) 9-11.

Group XI drawn to "a polypeptide of SEQ ID NO:14" containing claim(s) 9-11.

Group XII drawn to "a polypeptide of SEQ ID NO:16" containing claim(s) 9-11.

Group XIII drawn to "a polypeptide of SEQ ID NO:18" containing claim(s) 9-11.

Group XIV drawn to "a polypeptide of SEQ ID NO:20" containing claim(s) 9-11.

Group XV drawn to "a polypeptide of SEQ ID NO:22" containing claim(s) 9-11.

Group XVI drawn to "a polypeptide of SEQ ID NO:27" containing claim(s) 9-11.

Group XVII drawn to "a transgenic animal" containing claim(s) 16 (in part) and 40.

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Group XVIII drawn to "a process for the production of L-ascorbic acid using a recombinant organism" containing claim(s) 18 and 21.

Group XIX drawn to "a process for the production of L-ascorbic acid using a non-recombinant organism" containing claim(s) 19 and 41.

Group XX drawn to "a process for the production of L-ascorbic acid using a polypeptide having L-sorbose dehydrogenase activity" containing claim(s) 20.

Group XXI drawn to "a method of making L-sorbose dehydrogenase using non-recombinant organism" containing claim(s) 23.

Group XXII drawn to "a process for the production of vitamin C" containing claim(s) 24-39 and 42. (Id. at 2-4.)

In accordance with restriction practice, the subject matter of claims 9-11 directed to a polypeptide of SEQ ID NO:16 (Group XII), is hereby elected for prosecution with traverse.

It is submitted that the Examiner has already designated a species in the manner in which the restriction was made. The polypeptide of SEQ ID NO:16 is the species designated.

We respectfully request that upon finding claims 9-11 allowable with respect to SEQ ID NO:16, the Examiner broaden the search to the remaining subject matter of a polypeptide of claims 9-11 (Groups IX-XI and XIII-XVII).

It is also respectfully submitted that the Examiner has not shown that it would be unduly burdensome for the Examiner to search process claims that involve the use of a polypeptide of SEQ ID NO:16 in addition to searching a polypeptide of SEQ ID

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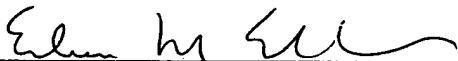
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NO:16. It is requested that the Examiner remove the restriction requirement as to claims 18 and 21 (Group XVIII) and claim 20 (Group XX) where the species, if necessary to designate, is a polypeptide of SEQ ID NO:16.

In the alternative, we request rejoinder of the process claims as indicated by the Examiner on pages 5-6. In particular, if the restriction is not removed as to the noted process claims, we request rejoinder of these claims, i.e., claims 18 and 21 (Group XVIII) and claim 20 (Group XX) where the species, if one is necessary to designate, is a polypeptide of SEQ ID NO:16.

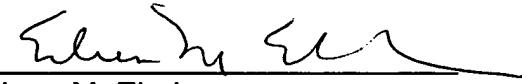
The Examiner's early and favorable action in this application is respectfully requested.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 25, 2008.



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Respectfully submitted,

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